

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**July 5, 2007**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 5, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Elizabeth Bishop; David Dennis; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell (in @1:32 p.m.); M.S. Mitchell and Don Sherman (in @1:31 p.m.). Michael Gisick, John W. McKay Jr. and G. Nelson Van Fleet were not present. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. **Approval of the June 7 and June 21, 2007 MAPC minutes.**

**CHAIRMAN DOWNING** commented that due to administrative errors, the Commission would delay action on the minutes until the next meeting.

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**NEIL STRAHL**, Planning Staff briefly updated the Commission on the following cases.

**SHERMAN** (in @1:31 p.m.)

❖ **Items # 2-1 and 2-4 may be taken in one motion unless there are questions or comments.**

Consideration of Subdivision Committee recommendations from the meeting of June 28, 2007.

**2-1. SUB 2007-56: One-Step Final Plat -- CAMPUS CREST ADDITION**, located on the southwest corner of 29<sup>th</sup> Street North and Oliver.

NOTE: This property includes a portion of the vacated Greenbriar Manor Addition. The applicant requests a zone change (ZON 2007-30) from LC, Limited Commercial to MF-29, Multi-Family Residential for the northwest portion of the site.

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. City Water Utilities Department advises that water is available on Oliver. The sewer lateral needs to be extended and in lieu of main assessment included with petition.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the applicant's drainage plan. On-site detention is needed. Clarification of the FEMA flood boundaries needs to be provided. In accordance with zone change approval, the south portion of Reserve A needs to be widened to include all of the property zoned SF-5.
- E. The plat proposes two openings along Oliver. Traffic Engineering has approved the access controls subject to denoting 445 feet of complete access control between the two permitted openings.
- F. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. If there is a swimming pool to be built, the design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.

- G. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- H. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. County Surveying advises that applicant needs to dimension the Kaneb Pipeline easement.
- K. County Surveying advises that "Basis of bearings" is missing from the final plat.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

He said the drainage plan referenced in item D has been approved by City Engineering; however, clarification of the FEMA flood boundaries has yet to be provided but it is anticipated that this will occur prior to scheduling the case for City Council review. He said the County Surveying requirements referenced in items J and K as not been completed, but will be denoted on the final tracing prior to scheduling for review by the governing body.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (10-0).

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- 2-2. **SUB 2007-12: Final Plat -- THE MOORINGS 10<sup>TH</sup> ADDITION**, located south of 53<sup>rd</sup> Street North and west of Meridian Avenue.

NOTE: This is a replat of a portion of the Moorings North Addition and Northlakes Commercial Addition, in addition to unplatted property. The north portion of this site is located in the County adjoining Wichita's city limits and annexation is required. The Applicant proposes a zone change from OW, Office Warehouse to SF-5, Single-Family Residential for Lots 31 and 32, Block 3. The north portion of the site (except for Lots 31 and 32, Block 3) is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the residential portion of the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of City water and sanitary sewer (main and lateral) to serve the lots being platted. City Water Utilities Department advises of building constraints for Lots 1 and 15, Block 1 and Lot 2, Block 2 due to the 25' raw water easement as denoted on the preliminary plat. According to City Water Utilities Department, the 25' easement is owned by the City of Wichita, and the easement may be vacated with this plat upon submittal of a guarantee for the pipeline abandonment. A vacation request should also be submitted for the remainder of the easement or vacated with subsequent plats.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. This plat will be subject to approval of the associated zone change and any related conditions of such a change. In the event a zone change is not completed prior to MAPC review of the plat, a restrictive covenant shall be provided limiting Lots 31 and 32, Block 3 to uses permitted in the SF-5 zoning district. The applicant will be providing a restrictive covenant.
- E. City Engineering has approved the drainage plan. Drainage easements need to be added as denoted on the drainage plan. Reserve C should be expanded to the north. In the alternative, an off-site drainage easement needs to be submitted. Minimum pads need to be denoted.
- F. This site is located over the Equus Beds aquifer. The applicant shall contact the Equus Beds Management District regarding any restrictions on the property.
- G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. With the approval of this plat, a waiver of the lot depth to width ratio of the Subdivision Regulations for various lots within Block 2 has been approved. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- L. GIS has requested that Crystal Beach extending east of Boardwalk be replaced with a new name. "Sandkey" shall be labeled for the street adjoining Lots 1-11, Block 1.
- M. Recording data is needed for the off-site drainage dedication in the event it is recorded prior to the plat.

- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Westar Energy has requested additional easements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

He said the drainage plan referenced in item E has been approved by City Engineering; but minimum pads still need to be donated on the final plat prior to scheduling and review by the City Council. He added that drainage easements referenced in sentence two of Item E have been retracted.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (10-0).

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**MARNELL** (in @1:32 p.m.)

**2-3. SUB 2007-46: Final Plat -- WOLF ADDITION,** located south of 29<sup>th</sup> Street North and on the east side of 167<sup>th</sup> Street West.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage. A memorandum shall be obtained specifying approval. A covenant is needed for a twin lagoon.

- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. City of Wichita Water Utilities Department requests a petition for future extension of sanitary sewer and City water services (main and lateral).
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering requests additional information submitted regarding the flood study. Base flood elevations also need to be established per FEMA Publication 265. Minimum pads and floodway reserve boundary may need to be revised.
- F. The plat denotes four openings along 167<sup>th</sup> St. West. The Subdivision Committee has approved submittal of a restrictive covenant allowing a temporary second opening for Lot 2 which would be closed upon redevelopment of the site. A maintenance opening is also permitted for Lot 1.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**STRAHL** said County Public Works staff was working with the applicant's agent on the drainage issues and plat details referenced in item E. He said they were confident that the plat could be approved by the MAPC today and reviewed later by County Public Works prior to scheduling it to go to the governing body for final review and approval.

**BISHOP** referenced, SUB2007-12, the Moorings 10<sup>th</sup> addition, and asked why Planning Staff did not take care of contacting the Equus Beds Management District regarding restrictions on the property?

**STRAHL** explained that staff sends copies of all plats to the Equus Beds Management District and leaves it up to them to get in touch with staff if there is a problem. He said in the past, the Equus Beds Management District staff has always contacted him if there were any concerns. .

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (10-0).

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**2-4. SUB 2007-62: One-Step Final Plat -- WILLOW PLACE 2<sup>ND</sup> ADDITION**, located west of Webb Road and on the south side of 45<sup>th</sup> Street North.

NOTE: This is a replat of a portion of the Sun-Air Estates. The site has been approved for a zone change (ZON 2007-05) from SF-5, Single-Family Residential to TF-3, Two-Family Residential.

**STAFF COMMENTS:**

- A. City Water Utilities Department advises that the applicant shall extend water to all lots being platted. The water line in 45<sup>th</sup> Street needs to be 16" to the east property line of the plat. The applicant shall extend sewer to all lots and include in lieu of main assessment with petition. An off-site easement will be needed for sewer extension.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The plat proposes one street opening along 45<sup>th</sup> St. North and complete access control along the remaining street frontage. Traffic Engineering has approved the access controls.
- E. The Applicant shall guarantee the paving of the proposed street.
- F. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- G. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- H. GIS has requested the street be labeled as "Wilderness Cir".
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who

acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (10-0).

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**❖ PUBLIC HEARINGS – VACATION ITEMS**

**Items #3-1 and 3-2 may be taken in one motion, unless there are questions or comments.**

**3-1. VAC 2007-16: Request to vacate a drainage easement dedicated by separate instrument.**

**OWNER/AGENT:**

Jon Michael Woodruff  
Certified Engineering Design, c/o Harlan Foracker

**LEGAL DESCRIPTION:**

See the attached legal: Generally described as that portion of the 10-foot wide drainage easement dedicated by separate instrument (FILM 2772/PAGE 0006, recorded 2003), that is located 25-feet north of the south lot line of Lot 3 and runs parallel to said lot's south lot line and a platted 5-foot wall easement and a platted 20-foot utility easement all in Block 1, the Collective Addition, owned by the applicant, all in Wichita, Sedgwick County, Kansas.

**LOCATION:**

Generally located east of K-96, south of 21<sup>st</sup> Street North, and west of Founders Circle. (WCC #II)

**REASON FOR REQUEST:**

Additional room to build

**CURRENT ZONING:**

Subject property and abutting northern and western properties are zoned "LC" Limited Commercial. The abutting southern property is zoned "GO" General Office. The adjacent properties, across Founders Street, are zoned "SF-5" Single-family Residential. The site is part of CUP DP-256.

The applicant is requesting consideration for the vacation of the described portion of the 10-foot wide drainage easement dedicated by separate instrument. The drainage easement runs the length of the south lot line of Lot 3, Block 1, and into Reserve "C," all in the Collective. Reserve "C" has been platted for pedestrian improvements, drainage, landscaping, and utilities confined to easements. The Reserve is owned and maintained by the owner's association. The Collective was

recorded with the Register of Deeds January 9, 2002. A commercial Lot Split (SUB2005-69, recorded 08-22-2005) of Lot 3, Block 1, the Collective created the subject site, Parcel A. and the abutting (north and west sides) Parcel B. The Lot Split does not show the drainage easement dedicated by separate instrument, which was recorded in 2003. There are no utilities, manholes, storm water equipment, sewer or water lines in the drainage easement dedicated by separate instrument.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the described drainage easement dedicated by separate instrument with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time May 31, 2007 which was at least 20 days prior to this public hearing.
  - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the drainage easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
  - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the easement dedicated by separate instrument described in the petition should be approved subject to the following conditions:
  - (1) Provide Storm Water with a drainage plan for review and approval.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
  - (3) All improvements shall be according to City Standards and at the applicants' expense.
  - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

- (1) Provide Storm Water with a drainage plan for review and approval.
- (2) Any relocation or reconstruction of utilities, including public drainage improvements, made necessary by this vacation shall be the responsibility of the applicant and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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**3-2. VAC 2007-20: Request to vacate a portion of platted complete access control.**

**OWNER/AGENT:** MDT LLC KE Miller Engineering, c/o Kirk Miller

**LEGAL DESCRIPTION:** Generally described as allowing one drive onto 37<sup>th</sup> Street North off of Lot 1, Block 2, Bridgeport 3<sup>rd</sup> Industrial Addition, Wichita, Sedgwick County, Kansas. Associated with Lot Split, SUB2007-59.

**LOCATION:** Generally located east of Broadway Avenue, on the southeast corner of Ohio Avenue and 37<sup>th</sup> Street North (District #VI)

**REASON FOR REQUEST:** Improve access and internal circulation on property

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned "GI," General Industrial

The applicant has applied for vacation of a portion of complete access control along the site's 626.08-feet of 37<sup>th</sup> Street North frontage. This request is associated with Lot Split SUB2007-59. Prior to the application for the Lot Split the site had access onto Ohio Avenue and 35<sup>th</sup> Street North (no platted complete access control onto these streets), the proposed Lot Split will limit access onto the new site off of Ohio Avenue. At this location Ohio Avenue is classified as an urban collector. 37<sup>th</sup> Street North is classified as a minor arterial at this location. 37<sup>th</sup> has a 50-foot half street right-of-way at this location, instead of the standard 60-feet. There are two drives located north, across 37<sup>th</sup>, from the site: Lot 6, Bridgeport Industrial Park II Addition (recorded 01-23-1981, platted as allowing one drive onto 37<sup>th</sup>) and Lot 4, North Wichita Garden Addition (recorded 07-20-1922, with no platted complete access control onto 37<sup>th</sup>). There are manholes and sewer line in portions of the site's 37<sup>th</sup> frontage. There are no water lines located in the site's 37<sup>th</sup> frontage. The Bridgeport 3<sup>rd</sup> Industrial Addition was recorded with the Register of Deeds March 18, 1980.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the requested vacation of the described portion of complete access control, with the following findings:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication, as required by law, by publication in the Wichita Eagle & the Derby Reporter of notice of this vacation proceeding one time June 14, 2007 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
- (1) Allow one, as approved by the Traffic Engineer, onto 37<sup>th</sup> Street North.
  - (2) Complete the Lot Split, SUB2007-59, including the dedication/platting of 10-feet of ROW along the site's 37<sup>th</sup> Street North's frontage, easements for utilities, including sewer, and a drainage plan for review and approval. The Vacation Order/request will be prepared for WCC upon confirmation that the Lot Split, SUB2007-59 has been recorded with the Register of Deeds
  - (3) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
  - (4) All improvements shall be to the City's standards and at the owner's expense
  - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the

City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Allow one drive, as approved by the Traffic Engineer, onto 37<sup>th</sup> Street North.
- (2) Complete the Lot Split, SUB2007-59, including the dedication/platting of 10-feet of ROW along the site's 37<sup>th</sup> Street North's frontage, easements for utilities, including sewer, and a drainage plan for review and approval. The Vacation Order/request will be prepared for WCC upon confirmation that the Lot Split, SUB2007-59 has been recorded with the Register of Deeds
- (3) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be to the City's standards and at the owner's expense
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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❖ **PUBLIC HEARINGS**

**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 P.M.**

4. **Case No.: ZON2007-23** –Leslie Eck (applicant); Poe & Associates c/o Tim Austin (agent) Request County zone change from “SF-20” Single-family Residential to “LC” Limited Commercial on property described as;

The North 550 feet and the East 250 feet of the West 275 feet of the following described tract;  
The Southeast Quarter of Section 27, Township 26 south, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT road right-of-way record. Generally located the southwest corner of K-96 and Hoover Road (3955 N. Hoover Rd).

**BACKGROUND:** The applicant owns approximately 150-acres located just south of K-96, and along the west side of Hoover Road. The site in question is a little over three-acres located at the extreme northeast corner of the 150-acre parcel. The property is located in an unincorporated part of Sedgwick County, but within the Wichita 2030 growth area. The property is currently zoned “SF-20” Single-family Residential and the applicant is requesting “LC” limited Commercial zoning on this property for what the applicant describes as the “best use” of the land. The applicant's property was developed as a sand and gravel extraction operation (CU-373,) but at this time the property is undeveloped.

“LC” zoning is located on the four corners of the intersection south of the subject site, at Hoover Road and 37<sup>th</sup> Street North, but nothing in that area is commercially developed. With the exception of the applicant's property these surrounding properties are either agricultural fields with a single-family farmhouse or undeveloped vacant land. The character of the area, other than the intersection of Hoover and 37<sup>th</sup> St. North, is agricultural with scattered large tract residential (all zoned “SF-20”) to the north and east of the subject site. West and south of the site, is the remaining 150-acres owned by the applicant. Conditional Use, CU-373, covered the property owned by the applicant (zoned “SF-20”) to allow sand and gravel excavation, but the Conditional Use expired December 31, 1997. The site abuts the eastbound of State Highway K-96, but Hoover Road has no access off or onto K-96.

**CASE HISTORY:** The site is not platted. In 1958 the Board of County Commissions (BoCC) approved the Official Zone Map of Sedgwick County, Kansas. On this map all four corners (approximately 7-8-acres on each corner) of Hoover Road's intersection with 45th Street North (north of the subject site) and 37<sup>th</sup> Street North (south of the subject site) was identified as being zoned “LC” Light Commercial. The extreme southeast corner (approx. 7-acres) of the applicant's

property was zoned “LC” in 1958. On the 1958 zoning map the remaining 143-acres of the applicants’ property (the subject site) was identified as being zoned “R-1.” On March 25, 1996, as approved by the City Council and BoCC, the zoning district names and map code designations for Wichita and Sedgwick County converted the “LC” Light Commercial district to “LC” Limited Commercial and the “R-1” Suburban Residential district to “SF-20” Single-family Residential. The size and configuration of the commercial zoning on the four corners of the 45<sup>th</sup> Street North – Hoover Road intersection remains unchanged from the 1958 zoning map to the present.

The entire 150-acre parcel was under a Conditional Use (CU-373) that was approved on July 20, 1994 to allow sand and gravel extraction operation. The Conditional Use Permit expired on December 31, 1997 and has not been renewed. The subject site is currently undeveloped.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-20” Single Family Residential	Single-family residence	Agricultural fields
SOUTH:	“SF-20” Single-family Residential		Vacant Land
EAST:	“SF-20” Single-family Residential		Agricultural fields
WEST:	“SF-20” Single-family Residential		Vacant Land

**PUBLIC SERVICES:** Hoover Road is a two-lane, paved arterial, in the County, at this location. The 2030 Transportation Plan of the Wichita/Sedgwick County Comprehensive Plan indicates no change to the current status of Hoover. No projects exist in the CIP for this road. There are no traffic counts at for this stretch of road. A site this size could potentially see gross building coverage of approximately 41,817 square feet. If developed as all retail, the site could generate approximately 1,756 average daily trips. City water and sewer are not available on the site. The site is outside any Rural Water districts.

**CONFORMANCE TO PLANS/POLICIES:** The “Wichita Land Use Guide” identifies the application area as appropriate for “Urban Development Mix” development. The Guide suggests “concentrations and pockets of major institutional uses, local commercial uses and park and open space uses,” could be developed in this area based upon market driven location factors. The applicant’s requested “LC” zoning for their site seems appropriate as considered within the Guide’s recommended “Urban Development Mix” development for this area, which stretches from just east of Ridge Road to Hoover Road and from 37<sup>th</sup> Street North to K-96.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is predominately zoned “SF-20” and with scattered large tract single-family residences, agricultural fields and undeveloped land. A Conditional Use (CU-373) was approved on July 20, 1994 to allow sand and gravel extraction operation. The Conditional Use Permit expired on December 31, 1997 and has not been renewed. The 37<sup>th</sup> Street North – Hoover Road intersection has had its four corners commercially zoned since 1958. 37<sup>th</sup> Street North is a dirt township road that serves local residential traffic. According to the 2030 Transportation Plan, 37<sup>th</sup> Street North, from West Street to 167<sup>th</sup> Street, is to be developed into a two-lane arterial. Hoover Road is a paved two-lane arterial with no access onto K-96, just north of the site. There is no city water or sewer available to the area. All things considered, it would seem that the area would continue to experience slow development.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject site exceeds the minimum lot size and configuration requirements for the “SF-20” zoning district and could be developed as a single-family residence. A lack of public services, limited access to major arterials and generally a lack of development in the area, make large commercial development at his intersection somewhat unlikely at this time.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The rezone to “LC” at this site will have a minimal, if any, affect on the area in the near future.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:** The “Wichita Land Use Guide” identifies the application area as appropriate for “Urban Development Mix” development. The Guide suggests “concentrations and pockets of major institutional uses, local commercial uses and park and open space uses,” could be developed in this area based upon market driven location factors. The applicant’s requested “LC” zoning for their site seems appropriate, but premature given the lack of services, as considered within the Guide’s recommended “Urban Development Mix” development for this area, which stretches from just east of Ridge Road to Hoover Road and from 37<sup>th</sup> Street North to K-96.

5. Impact of the proposed development on community facilities: The proposed zoning will not initially impact community facilities, as public water and sewer are not available, and traffic will not be significantly affected by such a small area added to the inventory of existing commercial zoning. However, approval of the request could increase demand for services ahead of extension of the public services.

**DERRICK SLOCUM** Planning Staff presented the staff report.

**MITCHELL** asked about page 4, community facilities. He asked to see any maps that showed the areas of K-96 north on Hoover. He commented that there are currently eight parcels adjacent to the area (north and south) already zoned Limited Commercial. He said he was concerned about the impact of the proposed development on any future interchange off of K-96. He said approval of this request would complicate, and likely make more expensive any future exchange.

**SLOCUM** acknowledged that was a good point and said staff had discussed how this could impact buying right-of-way, but that was not in the staff report.

**MITCHELL** also mentioned that there were no public facilities or water and sewer within ½ mile of the area.

**TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR THE APPLICANT** stated that they were in agreement with staff comments, and added that they also felt it was better to get commercial zoning out in front of development. He said he understands Mr. Mitchell's question; however, there was no interchange identified by the Kansas Department of Transportation (KDOT) or the City of Wichita. He said they felt this was the highest and best use in preparation for future development of the area.

**HILLMAN** asked what was the intended use for this property?

**AUSTIN** responded any use that was allowed in Limited Commercial. He said an interchange not unlike the interchange at Ridge Road and K-96 could be created in the future. He said in their opinion, commercial property was the best use of the area.

Responding to a question from **HILLMAN** concerning other properties owned by the applicant, **AUSTIN** explained that the majority of the area to the south was mostly water. He said with Hoover Road being an arterial street, the area is conducive for commercial development. He commented that a lot of different uses could be accommodated by Limited Commercial zoning, but admitted that there was no public infrastructure there now to support such usage.

**MITCHELL** asked if the applicant would consider leaving a reserve adequate for an interchange or moving the parcel far enough south so an interchange can be accommodated.

**AUSTIN** said typically zoning is subject to platting, and suggested that the issue be resolved at the time of platting. He said if there weren't any plans for an interchange, why would the owner set aside property for some public purpose? He asked why doesn't some government entity purchase the property today?

**MITCHELL** asked the reason the south line was located where it was?

**AUSTIN** said the location was a result of their meeting with the City's Development Review Committee. He mentioned a possible strip mall or other uses. He said they really hadn't thought about the interchange, but the applicant would like to keep things far enough from his drive. He referred to the map, which showed the applicant's residence south of the requested zoning area.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **HENTZEN** seconded the motion, and it carried (8-2).

**DOWNING** and **MITCHELL** – No.

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5. Case No.: ZON2007-30 – Socora Village Company (Linda Graham, current owner), Campus Crest Communities (Thomas Odai, contract purchaser) / MKEC Engineering Consultants, Inc., (Greg Allison) Request City zone change from "LC" Limited Commercial to "MF-29" Multi-family Residential on property described as;

That part of the Northeast Quarter of Section 2, Township 27 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, formerly described as Lot 20, Block 10, Greenbriar Manor Addition to Wichita,

Sedgwick County, Kansas, which said Lot 20 has been vacated. Generally located On the southwest corner of 29th Street North and Oliver Avenue.

**BACKGROUND:** The application area is approximately 10.94 acres of land zoned “LC,” Limited Commercial located west of Oliver Avenue and south of 29<sup>th</sup> Street (extended). The application area is undeveloped, and the current owner owns approximately nine additional acres located contiguous to the subject site that are zoned “MF-29,” Multi-family Residential and “SF-5,” Single-family Residential. The applicant is seeking “MF-29” zoning in order to develop an apartment complex.

The applicant’s conceptual site plan depicts 10 individual apartment buildings plus a clubhouse. There are to be 192 units. The tallest building is to be three stories in height. The project will provide 560 parking spaces or 2.9 spaces per dwelling unit, which exceeds code minimums of 1.75 spaces per unit. All of these structures are to be located outside of the 100-year floodplain. Two gated one-way access points, approximately 400 feet apart, are shown along North Oliver Avenue. Partially because of the floodplain, the apartment buildings are to be located approximately 300 feet east of the single-family residences located along North Terrace Drive. (Since this is a zone change, submission of and development of the site consistent with the site plan is not a code requirement.)

The applicant’s ownership includes a strip of “MF-29” zoned land abutting the subject site on the west and south. Further west and south on the owner’s property is a band of “SF-5” Single-family Residential zoning. The “SF-5” zoned land on the west is to be put into a “reserve” area on the Campus Crest Addition plat that prohibits the use of that area for anything other than open space, private recreation, landscaping, irrigation utilities, parking and drainage. Most of the “SF-5” zoned land to the west is located within the 100-year floodplain, making more intensive development problematic. Even further west is a developed single-family subdivision zoned “SF-5.” The “MF-29” and “SF-5” land located south of the site is undeveloped and owned by a church. To the east is Wichita State’s Hughes Metroplex on property zoned “LC.”

“MF-29” zoning permits up to 29 dwelling units per acre. Limited Commercial zoning permits multi-family uses, however the Unified Zoning Code (UZC) requires “LC” zoned sites over six acres in size to also have an approved Community Unit Plan (CUP). This site does not have an approved CUP. Options for the developer were the creation of a CUP or down zoning the property. The applicant has chosen the later approach.

**CASE HISTORY:** The existing “LC” zoning is thought to have been established in 1958 with an area-wide commercial initiative that granted “LC” zoning on many corner properties located at the intersection of section line roads. The application area was part of the Greenbriar Manor Addition, recorded in 1960, until a portion of the plat containing the subject tract was vacated (VAC2002-19) in 2002. ZON2004-33 was a request to down zone the property from “LC” to “SF-5” Single-family Residential. ZON2004-33 was not completed and was withdrawn in 2004. SUB2007-56 is an application to replat the site as Campus Crest Addition that was heard by the Subdivision Committee on June 14, 2007, and is scheduled to be heard by the MAPC on July 5, 2007.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: “LC,” Limited Commercial; vacant  
SOUTH: “MF-29,” Multi-family and “SF-5,” Single-family; vacant  
EAST: “LC,” Limited Commercial; WSU Hughes Metroplex  
WEST: “MF-29,” Multi-family, vacant and “SF-5”; single-family residences

**PUBLIC SERVICES:** Oliver at this location is a four-lane arterial with 50 feet of right-of-way. The applicants will provide an additional 10 feet of right-of-way with the Campus Crest Addition. Oliver carries 11,500 to 15,000 average daily trips. Apartments generate approximately 6.6 average daily vehicle trips per unit. At full occupancy the project could generate 1,267 average daily vehicle trips. Other publicly provided services are available or can be extended to the site. The western portion of the applicant’s ownership is located within the 100-year floodplain. As part of the review of the Campus Crest plat, city engineers will establish a drainage plan for the site designed to prevent higher flood elevations due to this project.

**CONFORMANCE TO PLANS/POLICIES:** Goal II of “The Wichita-Sedgwick County Comprehensive Plan Preparing for Change” indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Strategy II.A6 encourages the concentration of multi-family development to activity centers within central Wichita. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium-density residential use may serve as transitional land uses between low and high density residential uses and between low-density residential uses and commercial uses; medium and high-density uses

should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; and medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The "2030 Wichita Functional Land Use Guide" reflects the sites current "LC" zoning by showing the site as being appropriate for "local commercial" uses.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land surrounding the application area is a mix of zoning. Adjacent to the site is "LC," Limited Commercial and "MF-29," Multi-family Residential zoning. Further away is land zoned "SF-5" Single-family Residential. Some of this land is developed with university or single-family residential uses, while other property is vacant. This tract is part of a larger area that represents an infill opportunity. Properties further away from the subject site have been developed with office and residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "LC," Limited Commercial which allows a wide range of uses, however the site is over six acres in size, which triggers the requirement for a community unit plan (CUP) to be in place before building permits can be issued. Without the CUP development on the site is problematic. This proposed down zoning removes that obstacle making the property eligible for development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request does not permit any uses not allowed today if a community unit plan were prepared for the site. Therefore, nearby properties should not be detrimentally affected if the request were to be approved.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing to the market. Denial would, in effect, only delay the development of the property as the applicant could file a community unit plan and fully perfect the site's LC zoning, which would permit multi-family uses, unless the CUP specifically prohibited the use.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.
6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. Oliver is a four-lane facility that has remaining capacity to accommodate the uses allow by the proposed zoning. Other services are available or can be extended through the platting process.

**MOTION:** To approve subject to staff recommendations.

**JOHNSON** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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6. **Case No.: CON2007-24** – Lecia Granon (owner) / Sharon Mallory (applicant) Request City conditional use for an accessory apartment on property described as;

Lots 166 and 168, on Perry Avenue of the Riverside Addition in Wichita, Sedgwick County, Kansas. Generally located Northeast of the intersection of Perry Avenue and Briggs Avenue (1122 Perry Avenue).

**BACKGROUND:** The applicant requests a Conditional Use to allow an 630 square-foot accessory apartment on a 0.16-acre platted lot zoned TF-3 Two-family Residential, and located northeast of N. Perry Ave. and W. Briggs Ave. (1122 Perry Ave.) The applicant proposes to build an accessory apartment behind the principal structure on the lot. The character of the surrounding area is residential. All properties surrounding the subject property, along the 1100 block of N. Perry Ave, are zoned TF-3 and are developed as single-family residences, with one duplex located north of the subject site, on the southeast corner of N. Perry Ave. and 11<sup>th</sup> St. North.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the TF-3 Two-family zoning district. Article III, Section D.6 (a) of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit and may be within the main building, within an accessory building or constructed as an accessory building;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium; and
- (4) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The applicant submitted the attached site plan illustrating the location of the proposed accessory apartment. The applicant indicates that it would be a one-bedroom apartment. The accessory apartment will be located behind the house and will utilize the existing driveway and alley for access.

**CASE HISTORY:** The property was platted as Lots 166 and 168, Riverside Addition in 1886.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3"	Single-family residences
SOUTH:	"TF-3"	Single-family residences
EAST:	"TF-3"	Single-family residences
WEST:	"TF-3"	Single-family residences

**PUBLIC SERVICES:** The subject property, currently, has access to N. Perry Ave. and the alley. N. Perry is a paved residential street with a 70-foot right-of-way. The subject property is connected to public water and sewer. No negative impacts on public services are anticipated.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "urban residential" development. The one dwelling unit on the application area and the residential development surrounding the subject site would be considered "urban residential." The policies of the Unified Zoning Code (UZC) allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms to adopted policies.

**RECOMMENDATION:** The application area is zoned TF-3, as is the surrounding residential neighborhood. The application area and surrounding properties could be redeveloped with two residential units as a duplex. The supplementary conditions of the UZC, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. Based upon information available prior to the public hearing, Staff recommends that the request be **Approved**, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Construction of improvements shall be completed within one year of approval of the Conditional Use.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned TF-3 Two-family residential and are developed with single-family residences; one duplex exists within a one-block radius. Given the size of the subject property, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a single-family residence. Accessory apartments are allowed as a "Conditional Use" in TF-3 provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the depth of the lot. Access to the proposed apartment would be from the existing driveway and through the alley. The placement of the accessory apartment along the rear property line, ten feet from the centerline of the alley, three feet side setbacks, and not utilizing more than one-half of the rear yard, all conforms to the standards set forth in the UZC for accessory apartments.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "urban residential" development. The two dwelling units on the application area are considered "low density residential." The Unified Zoning Code makes specific provision for accessory apartments in TF-3. This application as recommended for approval complies with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

**MOTION:** To approve subject to staff recommendation.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (10-0).

**HILLMAN** clarified that the apartment in the back end of property did not utilize more than 50% of the property.

**MARGUERITE SANDERS** responded no.

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7. **Case No.: CON2007-25** - Waterfront Residential Co., LLC, c/o Kevin Mullen (owner); MKEC Engineering c/o Brian Lindebak Request City conditional use for accessory apartments on single-family residential lots in "SF-5" Single-family Residential zoning (associated with ZON2007-15) on 57.2 acres.

A tract of land lying in the Southeast Quarter, Section 9, Township 27 South, Range 2 East, of the 6th Principal Meridian, Sedgwick County, Kansas; said tract being more particularly described as follows:

COMMENCING at southwest corner of said Southeast Quarter, thence along the west line of said Southeast Quarter N01°00'39"W, 615.00 feet to the POINT OF BEGINNING, thence continuing along said west line, N01°00'39"W, 1946.49 feet to a point lying 100.00 feet south of the north line of said Southeast Quarter; thence parallel with and 100.00 feet south of said north line, N88°54'54"E, 1326.83 feet to the east line of the West Half, of said Southeast Quarter; thence along said east line, S00°54'24"E, 1230.47 feet to the northwest corner of the Southeast Quarter of the Southeast Quarter; thence along the north line of said Southeast Quarter, N88°54'23"E, 15.00 feet; thence S00°54'24"E, 625.59 feet to a point lying 705.00 feet north of the south line of said Southeast Quarter; thence parallel with and 705.00 feet north of said south line S88°53'46"W, 1096.15 feet to a point lying 242.31 feet east of said west line; thence parallel with said west line S01°00'39"E, 89.76 feet; thence parallel with said south line S88°53'46"W, 242.31 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 2,491,025 square feet or 57.19 acres of land, more or less. Generally located One-half mile west of Greenwich Road, one-eighth mile north of 13th Street.

**BACKGROUND:** The applicant seeks a Conditional Use to permit accessory apartments on property approved for "SF-5" Single-family Residential zoning, subject to platting, on 57.19 acres located 600 feet north of 13<sup>th</sup> Street north and ¼ mile west of Greenwich. The unplatted, vacant property is currently used for agriculture. The site lies within Area A of the Airport Hazard Zone (Wichita-Sedgwick Count Airport Hazard Zoning Map) and will require FAA review (FAA Form 7460-1) for any structures. The applicant wishes to give future single-family residential property owners the flexibility to develop an accessory apartment on single-family lots.

The Unified Zoning Code (UZY) defines "accessory apartments" as accessory dwelling units within or detached from principal single-family residences. The UZY would restrict detached accessory apartments as accessory structures with setbacks and prohibit them from being in front of the principle residence. UZY supplementary conditions for an accessory apartment conditional use include restrictions for one accessory apartment per single-family dwelling, require compatible appearance with the main dwelling and neighborhood, require the apartment to remain accessory to and under the same ownership of the principal residence (not have ownership divided or sold as a condominium), and require that water and sewer utilities shall not be provided as separate utilities from the main dwelling.

North of this site is vacant "GO" General Office and "LC" Limited Commercial zoned property within DP 274, The Oak Creek Community Unit Plan. Northwest of the site is an "SF-5" Single-family Residential zoned residential subdivision. South of the application area is LI zoned property with frontage on 13<sup>th</sup> Street North. East of the site is a "GI" General Industrial concrete plant, and GI zoned property approved for LI zoning subject to platting. West of the site is the LI zoned Waterfront Development.

**CASE HISTORY:** A residential subdivision plat has been filed, SUB2007-36.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GO" General Office	Vacant
EAST:	"GI" General Industrial	Concrete plant, vacant
SOUTH:	"LI" Limited Industrial	Vacant
WEST:	"LI" Limited Industrial	Commercial and office

**PUBLIC SERVICES:** The site would have access to 13<sup>th</sup> Street North, a four-lane arterial with a 100-foot right-of-way at this location. Current traffic counts on this portion of 13<sup>th</sup> Street North are 11,391 vehicles per day. This side of 13<sup>th</sup> Street North has an arterial street sidewalk.

Other normal public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the majority of the site as appropriate for an "employment/industry," consistent with the current LI zoning and previous ownership by aircraft industry. The western edge of this property is designated as "park and open space," consistent with the adjacent former business owned recreation area.

**RECOMMENDATION:** The concrete plant east of the site submitted a letter regarding future residents' concerns with concrete plant operations (see attached). Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Accessory apartment site plans and exterior building materials shall meet the requirements of the Unified Zoning Code, and shall be approved by Planning Staff.
3. Development and maintenance of the site shall be in conformance with all Unified Zoning Code Standards, and shall meet the supplementary use regulations of section III-D.6.a.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning on three sides of this property is LI or GI, with GO zoning to the north, and the nearest SF-5 subdivisions to the northwest. The proposed zoning may not be in character with the surrounding zoning. However, LI zoned property to the west is developed with commercial and office uses that would not necessarily be out of character with residential development. LI zoned property to the east and south is expected to develop with commercial and office uses similar to those in the Waterfront.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LI, and approved for a downzoning to SF-5. The site could continue to be used without the Conditional Use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that proposed accessory apartments meet all applicable codes and UZC requirements, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with *Wichita-Sedgwick County Comprehensive Plan* Goal II Objective A to *Encourage residential redevelopment, infill and higher density residential development, that maximizes the public investment in existing and planned facilities* (page 12 of the *1999 Comprehensive Plan Update – Goals, Objectives, Strategies*).
5. Impact of the proposed development on community facilities: The requested Conditional Use should have little if no impact on community facilities.

**MOTION:** To approve subject to staff recommendations.

**JOHNSON** moved, **ANDERSON** seconded the motion, and it carried (10-0).

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The Metropolitan Area Planning Department informally adjourned at 1:55 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)